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September 19, 2007

MEMO ENDORSED**VIA FACSIMILE**

The Honorable Denny Chin
United States District Judge
United States District Court for the Southern
District of New York
Daniel Patrick Moynihan United States Courthouse,
Courtroom 11A
500 Pearl Street, Room 1020
New York, New York 10007

USDC SDNY
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Re: CFTC v. Amaranth, et al., Civ. Action No. 1:07-6682 (SDNY)

Dear Judge Chin:

In accordance with the instructions from your law clerk, I am writing on behalf of the Futures Industry Association, Inc. (FIA), the Managed Funds Association, Inc. (MFA), the New York Mercantile Exchange, Inc. (NYMEX) and the Chicago Mercantile Exchange Group, Inc. (CME) (collectively the "Futures Group") to request leave to file a brief memorandum of law, *amicus curiae*, in the above-referenced matter. The Futures Group supports the exclusive jurisdiction of the plaintiff, Commodity Futures Trading Commission, 7 U.S.C § 2(a)(1)(A), and therefore supports the motion of the defendant, Amaranth Advisors, to stay the pending administrative proceeding brought by the Federal Energy Regulatory Commission against Amaranth for allegedly manipulating the price of the natural gas futures contract, traded on NYMEX.

The futures industry is a major engine of the American economy: more than \$5 trillion worth of futures contracts and options are traded daily on futures exchanges in this country. The Futures Group represents the bulk of regulated trading in the futures industry and thus has a substantial interest in preserving the integrity of the statutory grant of exclusive jurisdiction to the Commodity Futures Trading Commission under the Commodity Exchange Act (CEA).

As our memorandum of law would describe, the members of the FIA, MFA, NYMEX and CME, as well as the NYMEX and the CME themselves, are subject to stringent regulation under the CEA by the CFTC. It is settled law that Congress intended the CFTC's jurisdiction over futures markets, futures professionals and market participants to be exclusive, where applicable, and to supersede authority any other federal regulatory agency might have that could

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reach futures trading. CFTC exclusive jurisdiction allows futures markets to serve the congressionally-identified public interest by preventing duplicative regulation, or conflicting regulation, or conceivably both, by other federal agencies. Congress enacted exclusive jurisdiction because it knew multiple regulation of the same activity would impose undue costs and burdens on regulated futures markets and have other adverse public policy consequences.

FIA

The Futures Industry Association is a national trade association. Its regular membership consists of 35 of the Nation's largest futures brokerage firms, registered with the CFTC as futures commission merchants, as required under 7 U.S.C § 6d, and its associate membership consists of approximately 150 firms involved in virtually all other segments of the industry. FIA regular members execute customer orders for, and provide the financial guarantees underwriting, more than 90% of all transactions on the United States futures markets.

MFA

The Managed Funds Association is the national trade association for the alternative investment industry. MFA members include professionals in hedge funds, funds of funds and managed futures funds, many of which are registered with the CFTC as commodity trading advisors or commodity pool operators as required under 7 U.S.C § 6m. It is estimated that MFA members represent the vast majority of the largest hedge fund groups in the world and manage a substantial portion of the over \$1.5 trillion invested in absolute return strategies.

NYMEX

The New York Mercantile Exchange, Inc. is a for-profit corporation organized under the laws of the State of Delaware. It is the chief operating subsidiary of NYMEX Holdings, Inc. As a designated contract market and a registered derivatives clearing organization regulated by the CFTC, NYMEX is the largest exchange in the world for the trading and clearing of futures and options contracts on energy and metals commodities.

CME

The Chicago Mercantile Exchange Group, Inc. was formed by the merger of Chicago Mercantile Exchange Holdings Inc. and CBOT Holdings Inc. CME Group is the parent of CME Inc. and The Board of Trade of the City of Chicago Inc., both CFTC regulated designed contract markets as required under 7 U.S.C. § 7. CME Group also provides services to other exchanges; of interest here, it provides order routing and execution services to NYMEX. CME Group serves the global risk management needs of its direct customers and those who rely on the price discovery performed by means of its competitive markets. Under the CFTC's jurisdiction, CME

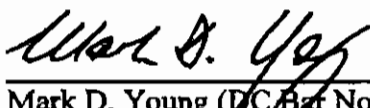
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Group offers a comprehensive selection of benchmark products in most major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, agricultural commodities, energy, and alternative investment products such as weather and real estate

Should the Court grant leave for the Futures Group to file a memorandum of law, *amicus curiae*, I understand the Court would specify when our memorandum would be due and whether a *pro hac vice* motion is also needed. Counsel would respectfully suggest that the Futures Group's memorandum of law might be most helpful to the Court if filed concurrently with Amaranth's reply brief, now due to be filed on September 26, 2007, as we understand the current schedule. This letter has been served on counsel for all parties by facsimile and email as reflected in the accompanying certification.

Respectfully submitted,



Mark D. Young (DC Bar No. 943126)
On Behalf Of The Futures Industry Association, Inc.
The Managed Funds Association, Inc.
The New York Mercantile Exchange, Inc.
The Chicago Mercantile Exchange Group, Inc.

MDY/daj

Approved.

SO ORDERED,



9/20/07